

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES DEBERRY,

Defendant.

CR 15-73-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his Findings and Recommendations on April 20, 2018. Defendant admitted that he had violated the conditions of his supervised release by failing to complete his sex offender treatment program. Judge Johnston found the admission sufficient to establish the supervised release violation. Judge Johnston recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of 4 months, with 56 months of supervised release to follow.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir.

1981).

This Court agrees with Judge Johnston's Findings and Recommendations. Defendant admitted that he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 12 months on Count 1 and 24 months on Count 2, followed by 60 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of 5 to 11 months. A custodial sentence of 4 months followed by 56 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 42) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 7th day of May, 2018.



Brian Morris
United States District Court Judge